

S.B. CIVIL WRIT PETITION NO.99/2005**Rajendra Manihar & Anr.****Vs****The Civil Judge (JD), Pali****DATE OF ORDER : 10.5.2005.****HON'BLE MR. PRAKASH TATIA,J.**

Mr.JK Bhaiya, for the petitioner.

Mr.BK Vyas, for the respondents.

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Heard learned counsel for the petitioner as well as learned counsel for the respondent.

The petitioner is aggrieved against the order dated 9.11.2004 by which the petitioner's application for taking on record the certified copy of the plaint filed by the plaintiff-non-petitioner was dismissed by the trial court.

The trial court observed that the suit was filed on 5.2.2002, the written statement was filed on 29.8.2002, the plaintiffs' evidence was closed on 17.4.2004 and the case was fixed for defendants' evidence on 21st May, 2004 and thereafter, on 17th July, 2004 and on 30th July, 2004, the evidence of DW-1 was recorded. The time was sought for evidence of the defendant on 21.8.2004 and 17th Sept., 2004 and at this stage and after this, the application has been filed. The trial court observed that the defendant did not disclose any material particular, namely, when he

got the information of filing of the other suit by the present plaintiff etc.

According to learned counsel for the petitioner, the petitioner was not party in the suit, which was filed by the petitioner against the other person and when he became party in the year 2004, he obtained the certified copy of the plaint and submitted before the trial court.

The facts which petitioner wants to supply now are not available in the application Annex.2 filed under Order 7 Rule 14 CPC. There appears to be no illegality in the impugned order dated 9th Nov., 2004, which has been passed on the basis of facts, which were mentioned in the application. Therefore, I do not find any merit in the writ petition.

Hence, the writ petition of the petitioner is dismissed. Consequently, the stay order granted by this Court on 12.1.2005 is vacated and the stay petition is also dismissed.

(Prakash Tatia), J.

c.p.goyal/-